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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

A.M., an individual,

Case No. 3:21-cv-01674-MO

Plaintiff,

v.

**JOINT RULE 26(f) REPORT AND
DISCOVERY PLAN**

OMEGLE.COM LLC,

Defendant.

Pursuant to Federal Rule of Civil Procedure 26(f) and Local Rule 26-1, and the Court's Order setting case deadlines (Dkt. 31), the parties conferred telephonically on July 5, 2022, for the planning of discovery in this action and consulted by email thereafter. Carrie Goldberg and Naomi Leeds, C.A. Goldberg PLLC and Barbara Long, Vogt & Long PC, attended for Plaintiff

A.M. Kimberlee Gunning, Focal PLLC and Clifford Davidson, Snell & Wilmer, attended for Defendant Omegle.com LLC.

The parties were unable to reach agreement about a threshold issue regarding the conduct and timing of discovery: whether discovery should be stayed until the Court rules on Omegle's pending Motion to Dismiss Plaintiff's First Amended Complaint (Dkt. 33.) Pursuant to the Court's email of July 12, 2022, Omegle will file a short motion addressing this issue.

Subject to resolution of this dispute regarding commencement of discovery in this action, and with the understanding that the plan may require adjustment based on the Court's decision on the pending Motion to Dismiss, the parties propose the following discovery plan for this action, pursuant to FED. R. CIV. P. 26(f)(3):

1. Initial Disclosures: Pursuant to LR 26-2, the parties agreed to forego the disclosures required by FED. R. CIV. P. 26(a)(1) and filed a FED. R. CIV. P. 26(a) Discovery Agreement on February 15, 2022 (Dkt. 24.)

2. Subject(s) of Discovery: As noted above, Omegle's position is that discovery should be stayed until a ruling on the pending Motion to Dismiss. Plaintiff's position is that discovery should not be stayed. When or if discovery commences, the parties anticipate that discovery will be had on the claims and issues raised by the First Amended Complaint (or subsequent versions of Plaintiff's complaint, if any); Plaintiff's alleged damages; and on Omegle's affirmative defenses.

3. Issues Regarding Electronically Stored Information ("ESI"): The parties discussed the need to preserve ESI and agreed to take reasonable measures to preserve all documents and ESI as required by FED. R. CIV. P. 26(b). With respect to the form of production for ESI, the parties will produce ESI in OCR'd PDF format whenever possible. If the ESI files prove to be

nonprintable or nonconvertible files, the files will be produced in native format. The parties agreed to confer and attempt to reach agreement regarding any production format issues that may arise. To the extent ESI search terms and queries are necessary, the parties will confer on appropriate search terms and queries before any such effort is undertaken. Nothing in this statement limits any party's right to make full use of the discovery procedures provided in the Federal Rules of Civil Procedure or Local Rules, including any party's right to object to discovery served by the other party and to seek relief from the Court pursuant to the procedures in the Federal Rules of Civil Procedure or Local Rules. The parties agree to serve all discovery via email.

4. Claims of Privilege or Protection. The parties will confer on any discovery disputes concerning any applicable privilege and/or protection as to trial preparation materials before seeking judicial assistance. If the parties cannot come to an agreement on any areas of dispute, the parties will follow the applicable provisions in the Federal Rules of Civil Procedure and Local Rules concerning discovery disputes. The parties agree to comply with FED. R. EVID. 502 regarding the inadvertent disclosure of privileged information. The proposed protective order that the parties will jointly submit to the Court (see 6., below) will also address the process the parties will use in the event of inadvertent disclosure of privileged information.

5. Limitations on Discovery. The parties agreed that no changes to the limitations on discovery set forth under the Federal Rules of Civil Procedure are necessary at this time. However, should circumstances change, the parties will confer and, if necessary, contact the Court if either party believes changes are warranted.

6. Any Other Necessary Orders. The parties agree that a protective order is appropriate in this case to govern the designation and protection of confidential and/or

proprietary information that may be contained in documents, discovery responses, or deposition testimony. The parties have agreed to cooperate on drafting a stipulated protective order to submit to the Court, based on this Court's form protective orders, as necessary to meet the specific needs of this case.

7. Proposed Schedule. In addition to the deadlines set forth in the Court's May 9, 2022 order (Dkt. 31), the parties respectfully request that deadlines for expert disclosures and reports should be set pursuant to FED. R. CIV. P. 26(a)(2)(D).

The parties acknowledge that any changes to, or extensions of, Court-imposed deadlines may be made only through the procedures of FED. R. CIV. P. 16 and LR 16-3.

Pursuant to LR 11-1(b)(2), counsel signing below consent to their signatures on this submission.

Dated this 19th day of July, 2022.

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